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No. 94-835

Supreme Court, U.S.
FILED
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IN THE
Supreme Court of the United States
OCTOBER TERM, 1994

CROWN CORK & SEAL CO., INC.,
Petitioner,
v.
UNITED STEELWORKERS OF AMERICA,
AFL-CIO-CLC,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Third Circuit

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JOINT APPENDIX

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PETITION FOR A WRIT OF CERTIORARI FILED NOVEMBER 8, 1994
CERTIORARI GRANTED JANUARY 6, 1995

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The following opinions, decisions and orders have been omitted in printing this joint appendix because they appear on the following pages in the appendix to the printed Petition for a Writ of Certiorari:

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

No. 92-CV-5968

UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC,
Plaintiff,

v.

CROWN CORK & SEAL CO., INC.,
Defendant.

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
10/15/92	Complaint. filing fee $120 receipt #383347 (mrs) [Entry date 10/16/92]
10/15/92	Summons (es) issued Forwarded to: mailed to counsel 10/16/92 (mrs) [Entry date 10/16/92]
10/15/92	Demand for jury trial by PLAINTIFF UNITED STEELWORKERS OF AMERICA (mrs) [Entry date 10/16/92]
10/15/92	MOTION & ORDER, APPOINTING SPECIAL PROCESS SERVER DEBORAH A. JOZWIAK TO SERVE THE SUMMONS AND COMPLAINT UPON THE DEFENDANT (SIGNED BY JUDGE THOMAS N. O'NEILL JR.) 10/16/92 ENTERED AND COPIES MAILED. (mrs) [Entry date 10/16/92]
10/15/92	Standard Case Management Track. (mrs) [Entry date 10/16/92]

DATE	PROCEEDINGS
10/21/92	ORDER, SET PRETRIAL CONFERENCE FOR 9:15 1/27/93 (SIGNED BY JUDGE THOMAS N. O'NEILL JR.) 10/22/92 ENTERED AND COPIES MAILED. (gn) [Entry date 10/22/92]
10/29/92	Affidavit of: Deborah A. Jozwiak re: served summons and complaint upon DEFENDANT CROWN CORK SEAL CO. Served by: certified mail on 10/23/92. (gn)
11/20/92	STIPULATION AND ORDER, EXTENDING TIME FOR DEFT TO ANSWER COMPLAINT SET ANSWER DUE FOR 12/2/92 FOR CROWN CORK SEAL CO. (Attorney: LINDA S. DWOSKIN) (SIGNED BY JUDGE THOMAS N. O'NEILL JR.) 11/20/92 ENTERED AND COPIES MAILED. (gn) [Edit date 03/15/93]
12/1/92	Answer to Complaint by DEFENDANT CROWN CORK SEAL CO. (Attorney JEROME A. HOFFMAN), Certificate of Service. (gn) [Entry date 12/02/92]
12/1/92	ISSUE JOINED. (gn) [Entry date 12/02/92]
12/3/92	Demand for jury trial by PLAINTIFF UNITED STEELWORKERS, Certificate of Service. (gn)
3/5/93	MOTION by DEFENDANT CROWN CORK SEAL CO. FOR SUMMARY JUDGMENT, MEMORANDUM, CERTIFICATE OF SERVICE. (gn) [Entry date 03/08/93]
3/12/93	MOTION by PLAINTIFF UNITED STEELWORKERS. TO EXTEND TIME TO FILE A RESPONSIVE BRIEF, CERTIFICATE OF COUNSEL, CERTIFICATE OF SERVICE. (gn)

DATE	PROCEEDINGS
3/19/93	ORDER GRANTING [9-1] MOTION TO EXTEND TIME TO FILE A RESPONSIVE BRIEF, set BRIEF DUE FOR 4/21/93 (SIGNED BY JUDGE THOMAS N. O'NEILL JR.) 3/22/93 ENTERED AND COPIES MAILED. (gn) [Entry date 03/22/93]
3/19/93	Response by DEFENDANT CROWN CORK SEAL CO. to [9-1] MOTION TO EXTEND TIME TO FILE A RESPONSIVE BRIEF, Certificate of Service. (gn) [Entry date 03/22/93]
3/24/93	SCHEDULING ORDER, PLFF'S RESPONSE TO MOTION reset to 4/21/93 for [8-1] MOTION FOR SUMMARY JUDGMENT, set DEFT'S REPLY BRIEF DUE FOR 5/5/93 (SIGNED BY JUDGE THOMAS N. O'NEILL JR.) 3/24/93 ENTERED AND COPIES MAILED. (gn)
4/21/93	Response by PLAINTIFF UNITED STEELWORKERS. to [8-1] MOTION FOR SUMMARY JUDGMENT, Certificate of Service. (gn)
5/4/93	UNOPPOSED MOTION by DEFENDANT CROWN CORK SEAL CO. TO EXTEND TIME TO FILE A REPLY BRIEF, CERTIFICATE OF SERVICE. (gn)
5/5/93	ORDER GRANTING [14-1] MOTION TO EXTEND TIME TO FILE A REPLY BRIEF, DEFT'S REPLY TO RESPONSE TO MOTION reset to 5/10/93 for [8-1] MOTION FOR SUMMARY JUDGMENT (SIGNED BY JUDGE THOMAS N. O'NEILL JR.) 5/6/93 ENTERED AND COPIES MAILED. (gn) [Entry date 05/06/93]
5/10/93	Reply by DEFENDANT CROWN CORK SEAL CO. to response to [8-1] MOTION FOR SUMMARY JUDGMENT, Certificate of Service. (gn) [Entry date 05/11/93]

DATE	PROCEEDINGS
5/20/93	Minute entry: Argued Sur: Deft's motion for Summary Judgment on 5/20/93. Deft's motion for summary judgment - C.A.V. (gn) [Entry date 05/21/93]
8/25/93	MEMORANDUM AND ORDER DENYING [8-1] MOTION FOR SUMMARY JUDGMENT (SIGNED BY JUDGE THOMAS N. O'NEILL JR.) 8/25/93 ENTERED AND COPIES MAILED. (gn)
9/3/93	MOTION BY DEFENDANT CROWN CORK SEAL CO. FOR CERTIFICATION OF INTERLOCUTORY APPEAL PURSUANT TO 28 U.S.C. 1292(B), MEMORANDUM, CERTIFICATE OF SERVICE. (ms)
9/16/93	Response by PLAINTIFF UNITED STEELWORKERS. to [19-1] MOTION FOR CERTIFICATION OF INTERLOCUTORY APPEAL PURSUANT TO 28 U.S.C. 1292(B), Certificate of Service. (gn)
9/17/93	ORDER GRANTING [19-1] MOTION FOR CERTIFICATION OF INTERLOCUTORY APPEAL PURSUANT TO 28 U.S.C. 1292(B) (SIGNED BY JUDGE THOMAS N. O'NEILL JR.) 9/17/93 ENTERED AND COPIES MAILED. (gn)
10/13/93	Certified copy of order from USCA dated 10/13/93 re: Petition for permission to appeal is granted. (sc) [Entry date 10/14/93]
10/26/93	RECORD COMPLETE FOR PURPOSES OF APPEAL. (cc)
10/27/93	Notice of Docketing ROA from USCA Re: USCA NUMBER: 93-2008. 10/28/93 (gn) [Entry date 11/02/93]
11/1/93	Copy of TPO form (gn) [Entry date 11/02/93]

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 93-8090

CROWN CORK & SEAL CO., INC.,
Petitioner

v.

UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC,
Respondent

RELEVANT DOCKET ENTRIES

DATE	FILINGS—PROCEEDINGS
1993	
Sept. 27	Petition of Crown Cork & Seal Co., Inc. for Permission to Appeal under 28 U.S.C. Section 1292 (b), rec'd. (rg)
Sept. 29	Answer received from United Steelworkers of America, AFL-CIO-CLC to Petition of Crown Cork & Seal for Permission to appeal, rec'd RG
Oct. 5	Submitted (C-37) on petition for permission to appeal. (rg)
Oct. 13	ORDER (*Mansmann*, Authoring Judge, Hutchinson and Scirica, Circuit Judges) granting petition for permission to appeal, received. (awi)
Oct. 13	CC to DC. (awi)
	TRANSFERRED TO THE GENERAL DOCKET AT NO. 93-2008

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 93-2008

UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC

v.

CROWN CORK & SEAL CO., INC.

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
10/27/93	CIVIL CASE docketed
12/13/93	BRIEF on behalf of Appellant Crown Cork & Seal, Pages: 29, Copies: 10, Delivered by mail, filed. Certificate of service date 12/13/93.
12/13/93	APPENDIX on behalf of Appellant Crown Cork & Seal, Copies: 4, Volumes: 1, Delivered by mail, filed. Certificate of service date 12/13/93.
12/20/93	MOTION filed by Chamber Commerce US for leave to proceed as amicus curiae in support of Appellant. Certificate of Service dated 12/13/93. SEND TO MERITS PANEL
01/18/94	BRIEF on behalf of Appellee United Steelworkers, Pages: 44, Copies: 18, Delivered by mail, filed. Certificate of Service date 1/18/94.
02/04/94	REPLY BRIEF on behalf of Appellant Crown Cork & Seal, Copies: 10, Delivered by mail, filed. Certificate of service date 2/4/94.
03/22/94	ORDER (Cowen, Authoring Judge, Roth, Circuit Judges, Ackerman, District Judge) granting motion by Chamber of Commerce of the USA for leave to proceed as amicus curiae in support of appellant, filed.

DATE	PROCEEDINGS
03/22/94	AMICUS BRIEF on behalf of Chamber Commerce US. Pages: 12, Delivered by mail, filed. Certificate of service date 12/13/93 (see order: 3/22/94).
05/24/94	ltr per Rule 28(j)
05/24/94	ARGUED
08/10/94	OPINION filed
08/10/94	JUDGMENT entered

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Civil Action No. 92-CV-5968

UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC,
Plaintiff,

v.

CROWN CORK & SEAL CO., INC.,
Defendant.

COMPLAINT

Plaintiff, United Steelworkers of America, AFL-CIO-CLC, (hereinafter, the "Union"), brings this action for declaratory and monetary relief against Crown Cork & Seal Co., Inc. (hereinafter, the "Company"), to secure the rights of Union-represented employees who were laid off from their employment with the Company in September, 1991. As set forth below, the Company's actions violated the Worker Adjustment and Retraining Notification Act of 1988 (hereinafter, the "WARN Act"), 29 U.S.C. § 2101 *et seq.*, which required the Company to provide the Union with 60 days notice prior to ordering a statutory plant closing or mass layoff under the WARN Act. In laying off the employees without providing the 60 days notice required by the WARN Act, the Company has deprived the employees of the statutorily mandated 60 day notice period in which to prepare for the financial and emotional travails of unemployment.

Jurisdiction and Venue

1. This Court has jurisdiction over this matter pursuant to Section 5(a)(5) of the WARN Act, 29 U.S.C. § 2104 (a)(5), as well as pursuant to 28 U.S.C. § 1331 and § 1337.

2. Venue over this action lies in this Court pursuant to 28 U.S.C. § 1391.

Parties

3. Plaintiff Union is the exclusive collective bargaining representative of a bargaining unit composed of certain employees of the Company within the meaning of Section 9(a) of the National Labor Relations Act, 29 U.S.C. § 159(a) and is a representative of certain employees of the Companies within the meaning of Section 2(a)(4) of the WARN Act, 29 U.S.C. § 2101(a)(4). Plaintiff Union brings this action on behalf of the Company's Union-represented employees who were aggrieved by the Company's violation of the WARN Act described below.

4. Defendant Company's headquarters are located within this judicial district at 9300 Ashton Road, Philadelphia, Pennsylvania. Defendant Company produces or produced beverage cans at its production plant located near Perry, Georgia. The Company is an employer within the meaning of Section 2(a)(1)(A) of the WARN Act, 29 U.S.C. § 2101(a)(1)(A), employing over 100 employees at its Perry, Georgia location and hundreds more at Company owned and operated locations around the nation.

Allegations

5. The Company's Perry, Georgia plant is contained within a single physical structure and constitutes a single site of employment as that term is utilized in the WARN Act.

6. On or about September 30, 1991 the Company ordered a reduction in force and a temporary shutdown

of the Perry, Georgia plant entailing the layoff of approximately 85 Union-represented employees.

7. The reduction in force or shutdown described in paragraph 6 has exceeded six months and continues to this day.

8. The reduction in force or shutdown described in paragraph 6 resulted in an employment loss, as that term is defined by Section 2(a)(6) of the WARN Act, 29 U.S.C. § 2101(2)(a)(6), for more than 50 of the Company's employees at the Perry, Georgia plant.

9. The reduction in force or shutdown described in paragraph 6 resulted in an employment loss, as that term is defined by Section 2(a)(6) of the WARN Act, 29 U.S.C. § 2101(2)(a)(6), for more than 33% of the Company's employees at the Perry, Georgia plant.

10. The shutdown described in paragraph 6 constitutes a plant closing within the meaning of Section 2(a)(2) of the WARN Act, 29 U.S.C. § 2101(a)(2).

11. Alternatively, the reduction in force described in paragraph 6 constitutes a mass layoff within the meaning of Section (2)(a)(3) of the WARN Act, 29 U.S.C. § 2101(a)(3).

12. The Company failed to provide the notice to the Union mandated by the WARN Act of its intent to order the mass layoff or plant closing described above 60 days prior to ordering said mass layoff or plant closing, thereby violating Section 3(a) of the WARN Act, 29 U.S.C. § 2102(a).

WHEREFORE, plaintiff requests the following relief:

(1) That the Court declare that defendant has violated its statutory obligations under the WARN Act, and grant judgment for the plaintiff and against defendant;

(2) That the Court order the defendants to pay 60 days of wages and other benefits, with pre-judgment interest, to each affected employee in accordance with Section 5(a)(1) of the WARN Act, 29 U.S.C. § 2104(a)(1);

(3) That the Court award plaintiff its costs, and attorneys fees;

(4) That the Court award plaintiff such other and further relief as this Court deems just and necessary.

Respectfully submitted,

/s/ David Goldman
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Attorneys for plaintiff

DATED: 10-15-92

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Civil Action No. 92-CV-5968

UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC,
Plaintiff,

v.

CROWN CORK & SEAL CO., INC.,
Defendant.

DEFENDANT CROWN CORK & SEAL CO., INC'S ANSWER TO COMPLAINT

Defendant Crown Cork & Seal Co., Inc. ("CC&S") hereby responds to plaintiff's Complaint as follows:

Introductory Paragraph

Admitted in part, denied in part. It is admitted that plaintiff United Steelworkers of America, AFL-CIO-CLC ("Union") purportedly brings this action for declaratory and monetary relief against CC&S purportedly to secure the rights of Union represented employees who were laid off from their employment with the Company. Except as expressly admitted herein, CC&S denies the remaining averments contained in the introductory paragraph of the Complaint.

Jurisdiction and Venue

1. Admitted in part; denied in part. It is admitted that plaintiff purports to give this Court jurisdiction over this matter pursuant to Section 5(a)(5) of the WARN Act, 29 U.S.C. § 2104(a)(5), as well as pursuant to 28 U.S.C. §§ 1331 and 1337. Except as expressly admitted herein CC&S denies the remaining averments contained in paragraph 1 of the Complaint.

2. Admitted in part; denied in part. It is admitted that plaintiff purports to place venue in this Court pursuant to 28 U.S.C. § 1391. Except as expressly admitted herein, CC&S denies the remaining averments contained in paragraph 2 of the Complaint.

Parties

3. Denied. By way of further answer, the averments contained in paragraph 3 of the Complaint are conclusions of law to which no responsive pleading is required.

4. Admitted in part; denied in part. It is admitted that CC&S's corporate headquarters is located at 9300 Ashton Road, Philadelphia, PA. It is further admitted that CC&S produced beverage cans at its production plant in Perry, GA. Except as expressly admitted herein, the remaining averments contained in paragraph 4 of the Complaint are conclusions of law to which no responsive pleading is required.

Allegations

5. Admitted in part; denied in part. It is admitted that the Perry, GA plant is a single physical structure. Except as expressly admitted herein, the remaining averments contained in paragraph 5 of the Complaint are conclusions of law to which no responsive pleading is required.

6. Denied.

7. Denied.

8. Denied. By way of further answer, the averments contained in paragraph 8 of the Complaint are conclusions of law to which no responsive pleading is required.

9. Denied. By way of further answer, the averments contained in paragraph 9 of the Complaint are conclusions of law to which no responsive pleading is required.

10. Denied. By way of further answer, the averments contained in paragraph 10 of the Complaint are conclusions of law to which no responsive pleading is required.

11. Denied. By way of further answer, the averments contained in paragraph 11 of the Complaint are conclusions of law to which no responsive pleading is required.

12. Denied.

First Affirmative Defense

This Court lacks subject matter jurisdiction over some or all of the claims set forth in the Complaint.

Second Affirmative Defense

The Complaint in whole or in part fails to state a claim upon which relief can be granted.

Third Affirmative Defense

There is no basis for awarding declaratory or monetary relief under the facts and circumstances of this case.

Fourth Affirmative Defense

CC&S provided notice in compliance with WARN, 29 U.S.C. § 2102 *et seq.*

Fifth Affirmative Defense

The Complaint is barred by the applicable statute of limitations.

WHEREFORE, defendants CC&S respectfully requests that this Court enter judgment in its favor and against plaintiff on the Complaint and award it such other relief as is just and proper.

Respectfully submitted,

/s/ Jerome A. Hoffman, Esq.
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Dated: 12-1-92

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Civil Action No. 92-5968

UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC,
Plaintiff,

v.

CROWN CORK & SEAL CO., INC.,
Defendant.

DEFENDANT CROWN CORK & SEAL CO., INC.'S MOTION FOR SUMMARY JUDGMENT

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, and for the reasons set forth in the accompanying Memorandum of Law, defendant Crown Cork & Seal Co., Inc. hereby moves this Court to enter summary judgment in favor of defendant and against plaintiff.

Respectfully submitted,

/s/ Susannah R. Goodman
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Attorneys for Defendant
CROWN CORK &
SEAL CO., INC.

Dated: March 5, 1993

SUPREME COURT OF THE UNITED STATES

Nos. 94-834, 94-835

NORTH STAR STEEL COMPANY,
Petitioner

v.

CHARLES A. THOMAS, *et al.*,

CROWN CORK & SEAL CO., INC.,
Petitioner

v.

UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC

Petitions for writs of certiorari to the United States Court of Appeals for the Third Circuit granted. The cases are consolidated and a total of one hour is allotted for oral argument.

January 6, 1995